

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

AUG 15 1988

CERTIFIED MAIL

Dear Sir or Madam:

- We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information discloses that you were incorporated under the non-profit laws of the State of [REDACTED] on [REDACTED].

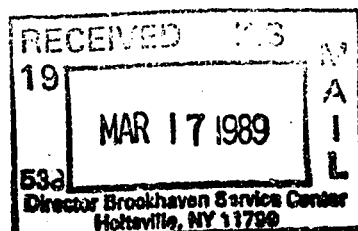
Your primary purposes as stated in your Articles of Incorporation are to provide maintenance, preservation and control of the common elements within the [REDACTED] and to promote the health, safety and welfare of the Association.

Your income is from members' fees and assessments. Expenditures are primarily for maintenance of common area (e.g. cleaning, painting, snow removal), insurance of common areas, payment of common area water, sewer and electricity charges.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the income tax regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-280, published in Internal Revenue Cumulative Bulletin 1969-1, page 152 holds that a non-profit corporation formed for the purpose of providing specified services for the homeowners in a housing development is not exempt as a 501(c)(4) social welfare organization. A purchaser of a unit in the housing development was required to become a member.



[REDACTED]

The organization was supported entirely by annual dues charged members. It was determined that the organization was performing services that its members would otherwise have to provide for themselves and that the organization was operated primarily for the private benefit of members.

Revenue Ruling 72-102, 1972-1C.B., page 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development, and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowner's association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are:

1. The organization must service a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit.
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

This ruling states that a community, within the meaning of section 501(c)(4) of the Code and the regulations, "...is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein."

Revenue ruling 74-99 states that it modifies the misconception given in Revenue Ruling 72-102 that a housing development is to be equated with the terms "community" within the meaning of section 501(c)(4) of the Code, thereby giving rise to the implication that any housing development may qualify as a community for exemption purposes regardless of other facts in the case. The term "housing development" is not to be viewed as necessarily coextensive with the term "community", so that not every association which oversees a housing development is entitled to claim the exemption.

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "...was intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks, and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted

[REDACTED]

to the members of the homeowners' association...."

Revenue Ruling 74-17, 1974-1 C.B., page 130 provides that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, does not qualify for exemption under section 501(c)(4) of the Code. Condominium ownership necessarily involves ownership in common by all unit owners of the common areas, the maintenance and care of which constitutes the provision of private benefits for the unit owners. Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare.

Your association is comparable to the organization described in the above revenue ruling. Your purposes and activities are for the primary benefit of your members and not for the general public. Therefore, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of Internal Revenue Code section 501(c).

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you do not qualify under Section 528, you must file corporate tax returns Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892

cc: State Attorney General - [REDACTED]